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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
2175	

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11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/741,600	HUNT ET AL.	
	Examiner	Art Unit	
	Neveen Abel-Jalil	2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 July 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15 and 30-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15 and 30-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

DOV POPOVICI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22-July-2003 has been entered.

2. The amendment filed on 22-July-2003 has been received and entered. Claims 44-47 are added. Therefore, claims 1-15, and 30-47 are now pending

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-4, 6-15, and 30-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Easty et al. (U.S. Patent No. 6,189,008) in view of Gogoi et al. (U.S. Pub. No. 2002/0199193 A1).

As to claim 1, Easty et al. discloses an automatic user preference detection system, comprising:

a score calculation module (See column 4, lines 15-24, wherein "score" reads on "rating") to determine a score for a media content file (See column 2, lines 58-60, wherein "media" reads on "digital", also see abstract) distributed to a user by a media content file distribution source (See figure 1, end server 13), wherein the score (See column 4, lines 15-24, wherein "score" reads on "rating") is calculated based on a comparison (See column 5, lines 46-63) of a length in time in which the user allows the media content file to be played at a user computing devise (See column 4, lines 37-49) relative to a total length of the media content file (See column 4, lines 28-36);

a database to store the preference file (See figure 1, end point database 14) for the user of the media content file distribution source (See figure 1, end server 13); and

a processing module (See column 6, lines 5-16) to modify the preference file based on the score, wherein the processing module further selects a second media content file to distribute to the user based on the preference file (See column 2, lines 63-67, and column 3, lines 1-8, also see column 4, lines 66-67, wherein "score" reads on "rating").

Easty et al. does not teach a preference determination module to determine a preference file for the user of the media content distribution source, the preference filed being based on previously determined media scores for the user computing device, wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device.

Gogoi et al. teaches a preference determination module to determine a preference file for the user of the media content distribution source (See page 8, claims 1-3), the preference filed being based on previously determined media scores for the user computing device (See page 8,

paragraphs 0168-0169, also see page 3, paragraph 0049, also see page 2, paragraphs 0021-0027, wherein "scores" reads on "ratings"), wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device (See page 1, paragraphs 0004-0005, wherein "user computing device" reads on "digital TV...and digital set top boxes", also see page 1, paragraph 0020, also see page 3, paragraph 0049, wherein "content files stored" reads on "history database", also see page 8, claims 1-10).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. to include a preference determination module to determine a preference file for the user of the media content distribution source, the preference filed being based on previously determined media scores for the user computing device, wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device.

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. by the teaching of Laursen et al. to include a preference determination module to determine a preference file for the user of the media content distribution source, the preference filed being based on previously determined media scores for the user computing device, wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device because it creates accurate and efficient user oriented database records.

As to claim 2, Easty et al. as modified discloses wherein the media content file is a music file (See column 2, line 10-17).

As to claim 3, Easty et al. as modified discloses wherein a rate at which the processing module modifies the preference file is configurable (See column 6, lines 5-16, also see column 4, lines 66-67, wherein "the rate" reads on "real time" and wherein "configurable" reads on " continuously updated", also see column 6, lines 62-67, wherein "configurable" reads on "real time").

As to claim 4, Easty et al. as modified discloses the system of claim 1, wherein the system determines the length based on the user's responses made with user control point (See column 5, lines 49-61, also see column 4, lines 28-49).

As to claim 6, Easty et al. as modified discloses wherein the media content files are sent to the user via an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see "column 1, line 47, wherein "stream" reads on "downstream data", also see column 3, lines 54-63, and see column 1, lines 59-63).

As to claim 7, Easty et al. as modified discloses wherein the processing module periodically selects testing media content files to distribute to the user (See column 4, lines 66-67, and column 5, lines 13, wherein "periodically" reads on "in real-time", and wherein "testing" reads on "recommends... a new CD"), wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 2,

lines 36-67, wherein "randomly selected" reads on "refreshes...selectively delivering", and wherein "testing" reads on "interactive").

As to claim 8, Easty et al. as modified discloses wherein the processing module further modifies the preference file based on responses of other users having similar media preferences (See column 4, lines 62-65, also see column 3, lines 1-10, wherein "processing module " reads on "central server", and wherein "responses of other users" reads on "aggregate profile").

As to claim 9, Easty et al. discloses an automatic user preference detection system, comprising:

a database (See figure 1, end point database 14) to store a media content preference file (See column 2, lines 58-60, wherein "media" reads on "digital") for the user of the media content distribution source (See figure 1, end point server 13);

a read/write device to read data from and write data to the database (See figure 1, end point server 13); and

a processing module (See column 6, lines 5-16) to modify the preference file based on the score, wherein the processing module further selects a second media content file to distribute to the user based on the preference file (See column 2, lines 63-67, and column 3, lines 1-8, also see column 4, lines 66-67, wherein "score" reads on "rating").

Easty et al. does not teach a preference determination module to determine a preference file for the user of the media content distribution source, the preference filed being based on previously determined media scores for the user computing device, wherein the preference

determination module scans the user computing device to determine the local media content files stored on the user computing device.

Gogoi et al. teaches a preference determination module to determine a preference file for the user of the media content distribution source (See page 8, claims 1-3), the preference filed being based on previously determined media scores for the user computing device (See page 8, paragraphs 0168-0169, also see page 3, paragraph 0049, also see page 2, paragraphs 0021-0027, wherein "scores" reads on "ratings"), wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device (See page 1, paragraphs 0004-0005, wherein "user computing device" reads on "digital TV...and digital set top boxes", also see page 1, paragraph 0020, also see page 3, paragraph 0049, wherein "content files stored" reads on "history database", also see page 8, claims 1-10).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. to include a preference determination module to determine a preference file for the user of the media content distribution source, the preference filed being based on previously determined media scores for the user computing device, wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device.

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. by the teaching of Laursen et al. to include a preference determination module to determine a preference file for the user of the media content distribution source, the preference filed being based on previously determined media scores for the user computing device, wherein the preference determination module scans the user

computing device to determine the local media content files stored on the user computing device because it creates accurate and efficient user oriented database records.

As to claim 10, Easty et al. as modified discloses wherein the media content file is music file (See column 2, line 14).

As to claim 11, Easty et al. as modified discloses wherein a rate at which the processing module modifies the preference file is configurable (See column 6, lines 5-16, also see column 4, lines 66-67, wherein "the rate" reads on "real time" and wherein "configurable" reads on " continuously updated", also see column 6, lines 62-67, wherein "configurable" reads on "real time").

As to claim 12, Easty et al. as modified discloses wherein the system determines the length based on the user's responses made with user control point (See column 5, lines 49-61, also see column 4, lines 28-49).

As to claim 13, Easty et al. as modified discloses wherein the media content files are sent to the user via an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see "column 1, line 47, wherein "stream" reads on "downstream data", also see column 3, lines 54-63, and see column 1, lines 59-63).

As to claim 14, Easty et al. as modified discloses wherein the processing module periodically selects testing media content files to distribute to the user (See column 4, lines 66-67, and column 5, lines 13, wherein "periodically" reads on "in real-time", and wherein "testing" reads on "recommends... a new CD"), wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 2, lines 36-67, wherein "randomly selected" reads on "refreshes...selectively delivering", and wherein "testing" reads on "interactive").

As to claim 15, Easty et al. as modified discloses wherein the processing module further modifies the preference file based on responses of other users having similar media preferences (See column 4, lines 62-65, also see column 3, lines 1-10, wherein "processing module " reads on "central server", and wherein "responses of other users" reads on "aggregate profile").

As to claim 30, Easty et al. discloses a method of automatically detecting media content preferences (See column 10, lines 37-40), comprising:

determining a score (See column 4, lines 15-24, wherein "score" reads on "rating") for a media content file (See column 2, lines 58-60, wherein "media" reads on "digital", also see abstract) distributed to a user by a media content file distribution source (See figure 1, end server 13), wherein the score (See column 4, lines 15-24, wherein "score" reads on "rating") is calculated based on a comparison (See column 5, lines 46-63) of a length in time in which the user allows the media content file to be played at a user computing devise (See column 4, lines 37-49) relative to a total length of the media content file (See column 4, lines 28-36);

storing a preference file (See figure 1, end point database 14) for the user of the media content file distribution source (See figure 1, end server 13), the preference file being (See column 5, lines 1-21) based on previously determined media scores for the user and a determination of local media content files stored on the user computing devise (See column 7, lines 1-12, also see column 4, lines 15-36, wherein "agenting section" can be stored on a user's PC); and

modifying the preference file based on the score; and wherein the processing module (See column 6, lines 5-16) selecting a second media content file to distribute to the user based on the preference file (See column 2, lines 63-67, and column 3, lines 1-8, also see column 4, lines 66-67, wherein "score" reads on "rating").

Easty et al. does not teach wherein the user computing device is scanned to determine the local media content files stored on the user computing device.

Gogoi et al. teaches wherein the user computing device is scanned to determine the local media content files stored on the user computing device (See page 1, paragraphs 0004-0005, wherein "user computing device" reads on "digital TV...and digital set top boxes", also see page 1, paragraph 0020, also see page 3, paragraph 0049, wherein "content files stored" reads on "history database", also see page 8, claims 1-10).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. to include wherein the user computing device is scanned to determine the local media content files stored on the user computing device.

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. by the teaching of Laursen et al. to include wherein the user computing device is scanned to determine the local media content files stored on the user computing device because comparing the user preference stored on the hard drive and the newly recommended ones allow for less repetition thereby reducing computer processing.

As to claim 31, Easty et al. as modified discloses wherein the media content file is a music file (See column 2, line 10-17).

As to claim 32, Easty et al. as modified discloses wherein a rate at which the preference file is modified is configurable (See column 6, lines 5-16, also see column 4, lines 66-67, wherein "the rate" reads on "real time" and wherein "configurable" reads on " continuously updated", also see column 6, lines 62-67, wherein "configurable" reads on "real time").

As to claim 33, Easty et al. as modified discloses further including determining the length based on the user's responses made with user control point (See column 5, lines 49-61, also see column 4, lines 28-49).

As to claim 34, Easty et al. as modified discloses further including sending the media content file to the user via an Internet stream (See Figure 1, network 15, wherein "internet" reads

on "network", also see "column 1, line 47, wherein "stream" reads on "downstream data", also see column 3, lines 54-63, and see column 1, lines 59-63).

As to claim 35, Easty et al. as modified discloses further including periodically selecting testing media content files to distribute to the user (See column 4, lines 66-67, and column 5, lines 13, wherein "periodically" reads on "in real-time", and wherein "testing" reads on "recommends... a new CD"), wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 2, lines 36-67, wherein "randomly selected" reads on "refreshes...selectively delivering", and wherein "testing" reads on "interactive").

As to claim 36, Easty et al. as modified discloses further including modifying the preference file based on responses of other users having similar media preferences (See column 4, lines 62-65, also see column 3, lines 1-10, wherein "processing module " reads on "central server", and wherein "responses of other users" reads on "aggregate profile").

As to claim 37, Eastey et al. discloses an article compromising a storage medium having stored thereon instructions that when executed by a machine result (See column 3, lines 42-63, wherein "storage medium" reads on "memory", and wherein "instructions" reads on "software", and wherein "machine" reads on "computer") in the following:

determining a score (See column 4, lines 15-24, wherein "score" reads on "rating") for a media content file (See column 2, lines 58-60, wherein "media" reads on "digital", also see

abstract) distributed to a user by a media content file distribution source (See figure 1, end server 13), wherein the score (See column 4, lines 15-24, wherein "score" reads on "rating") is calculated based on a comparison (See column 5, lines 46-63) of a length in time in which the user allows the media content file to be played at a user computing devise (See column 4, lines 37-49) relative to a total length of the media content file (See column 4, lines 28-36);

storing a preference file (See figure 1, end point database 14) for the user of the media content file distribution source (See figure 1, end server 13), the preference file being (See column 5, lines 1-21) based on previously determined media scores for the user and a determination of local media content files stored on the user computing devise (See column 7, lines 1-12, also see column 4, lines 15-36, wherein "agenting section" can be stored on a user's PC); and

modifying the preference file based on the score; and

selecting a second media content file to distribute to the user based on the preference file (See column 2, lines 63-67, and column 3, lines 1-8, also see column 4, lines 66-67, wherein "score" reads on "rating").

Easty et al. does not teach wherein the user computing device is scanned to determine the local media content files stored on the user computing device.

Gogoi et al. teaches wherein the user computing device is scanned to determine the local media content files stored on the user computing device (See page 1, paragraphs 0004-0005, wherein "user computing device" reads on "digital TV...and digital set top boxes", also see page 1, paragraph 0020, also see page 3, paragraph 0049, wherein "content files stored" reads on "history database", also see page 8, claims 1-10).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. to include wherein the user computing device is scanned to determine the local media content files stored on the user computing device.

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. by the teaching of Laursen et al. to include wherein the user computing device is scanned to determine the local media content files stored on the user computing device because comparing the user preference stored on the hard drive and the newly recommended ones allow for less repetition thereby reducing computer processing.

As to claim 38, Easty et al. as modified discloses wherein the media content file is a music file (See column 2, line 10-17).

As to claim 39, Easty et al. as modified discloses wherein a rate at which the preference file is modified is configurable (See column 6, lines 5-16, also see column 4, lines 66-67, wherein "the rate" reads on "real time" and wherein "configurable" reads on " continuously updated", also see column 6, lines 62-67, wherein "configurable" reads on "real time").

As to claim 40, Easty et al. as modified discloses wherein the instructions further result in determining the length based on the user's responses made with user control point (See column 5, lines 49-61, also see column 4, lines 28-49).

As to claim 41, Easty et al. as modified discloses wherein the instructions further result in sending the media content file to the user via an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see "column 1, line 47, wherein "stream" reads on "downstream data", also see column 3, lines 54-63, and see column 1, lines 59-63).

As to claim 42, Easty et al. as modified discloses wherein the instructions further result in periodically selecting testing media content files to distribute to the user (See column 4, lines 66-67, and column 5, lines 13, wherein "periodically" reads on "in real-time", and wherein "testing" reads on "recommends... a new CD"), wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 2, lines 36-67, wherein "randomly selected" reads on "refreshes...selectively delivering", and wherein "testing" reads on "interactive").

As to claim 43, Easty et al. as modified discloses wherein the instructions further result in modifying the preference file based on responses of other users having similar media preferences (See column 4, lines 62-65, also see column 3, lines 1-10, wherein "processing module " reads on "central server", and wherein "responses of other users" reads on "aggregate profile").

As to claim 44, Easty et al. as modified wherein when the user allows multiple media content files to be played, in their entirety (See column 4, lines 37-49, also see Gogoi et al. page 8, paragraph 0168, also see Gogoi et al. page 7, paragraph 0150), for a predetermined length of

time (See column 5, lines 49-56), the score calculation module (See Gogoi et al. page 2, paragraphs 0026-0030, also see Gogoi et al. page 1, paragraph 0019) stops calculating the score for each successive media content file (See Gogoi et al. page 8, paragraphs 0168-0169, also see Gogoi et al. page 3, paragraphs 0057-0058, wherein "stops calculating" reads on "do not result in separate viewing record").

As to claim 45, Easty et al. as modified wherein when the user allows multiple media content files to be played, in their entirety, for a predetermined length of time, the score calculation module stops calculating the score for each successive media content file.

As to claim 46, Easty et al. as modified wherein when the user allows multiple media content files to be played, in their entirety, for a predetermined length of time, no score for each successive media content file is determined.

As to claim 47, Easty et al. as modified wherein when the user allows multiple media content files to be played, in their entirety, for a predetermined length of time, no score for each successive media content file is determined.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Easty et al. (U.S. Patent No. 6,189,008) in view of Laursen et al. (U.S. Patent No. 5,805,804) as applied to claims 1-4 above, and further in view of Gogoi et al. (U.S. Pub. No. 2002/0199193 A1).

As to claim 5, Easty et al. as modified is silent on the method of user control point for the client system, he does teach the end user device to access the network to be a television set (See column 3, lines 52-53).

Easty et al. as modified does not disclose wherein the user control point is a remote control.

Laursen et al. discloses wherein the user control point is a remote control (See column 6, lines 11-12).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Easty et al. as modified to include the user control point is a remote control.

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Easty et al. as modified by the teaching of Laursen et al. to include the user control point is a remote control because using a remote control as user control point for the end user accessing device provides convenience of system access and control and providing time savings and would allow an individual to control the device remotely.

Response to Arguments

7. Applicant's arguments with respect to claims 1-15, 30-43, and 44-47 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kaiser et al. (U.S. Pub. No. 2002/0019858 A1) teaches system and method for the automatic transmission of new, high affinity media.

Leeke et al. (U.S. Patent No. 6,587,127 B1) teaches content player method and server with user profile.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 703-305-8114. The examiner can normally be reached on 8:00AM-4: 30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Neveen Abel-Jalil

DOV POPOVICI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100